

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CITIMORTGAGE, INC.,)
)
Plaintiff,)
)
v.) No. 4:11CV2240 TIA
)
AXIOM MORTGAGE BANKERS)
CORPORATION,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on Defendant's motion for continuance of the hearing previously set for July 6, 2012. Plaintiff filed its response in opposition on July 5, 2012. The parties consented to the jurisdiction of the undersigned pursuant to 28 U.S.C. § 636(b).

Plaintiff CityMortgage, Inc. filed a Complaint against Defendant, Axiom Mortgage Bankers Corporation, in federal court on December 27, 2011, alleging breach of contract. The Court issued a Case Management Order on March 15, 2012. On March 28, 2012, attorneys for Defendant filed a Motion to Withdraw indicating that Axiom requested that counsel withdraw from representation, and the Court granted said motion on April 2, 2012. However, after nearly two months, the Court noted there had been no entry of appearance on behalf of Defendant. Thus, the Court allowed Defendant additional time to provide the name of Defendant's counsel. More time ensued with no response from Defendant, and the Court set a status hearing for July 6, 2012.

On June 26, 2012, Wesley R. McKinney, President of Axiom, notified the Court that Axiom could not afford counsel, and Mr. McKinney was not in a position to proceed pro se. Thus, Mr. McKinney requested 60 days to find a solution. Plaintiff CitiMortgage filed a response in opposition

on July 5, 2012, indicating that Defendant was not in compliance with the Case Management Order or this Court's previous Order directing Axiom to provide the name of retained counsel. Further, Plaintiff asserted that Defendant failed to provide any reason for its failure to comply with these Orders. Defendant Axiom has not filed a reply to Plaintiff's response in opposition, and the time for doing so has expired.

The undersigned agrees with Plaintiff that this case should move forward. Defendant has not demonstrated justification for its failure to comply with the Orders of this Court, nor has it shown good cause for delaying the proceedings. While the Court sympathizes with Defendant's financial hardship, such reason does not excuse the Defendant from following this Court's Orders or otherwise defending a well-pleaded complaint. See E.D. Mo. L.R. 5.04; Fed. R. Civ. P. 55. Therefore, the Court will re-set the status hearing to move the case forward.

Accordingly,

IT IS HEREBY ORDERED Defendant's pro se motion to continue [Doc. #27] is **DENIED**.

IT IS FURTHER ORDERED that a status hearing on this case be set on Wednesday, August 15, 2012 at 10 a.m. in Courtroom 15-South. All parties must be present, including a representative from Axiom Mortgage Bankers Corporation.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 17th day of July, 2012.